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QUESTION OF THE VIOLATION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS IN ANY PART OF THE WORLD, WITH PARTICULAR REFERENCE TO COLONIAL AND OTHER DEPENDENT COUNTRIES AND TERRITORIES

Austria, Belgium*, Canada, Denmark*, Finland, France, Germany, Greece*, Hungary, Ireland*, Italy, Japan, Kuwait*, Liechtenstein*, Luxembourg*, Netherlands, Norway*, Portugal*, Spain*, Switzerland*, and United Kingdom of Great Britain and Northern Ireland: draft resolution

Situation of human rights in Iraq

The Commission on Human Rights,

Guided by the principles embodied in the Charter of the United Nations, the Universal Declaration of Human Rights and the International Covenants on Human Rights,

Recalling the Vienna Declaration and Programme of Action, as endorsed by the General Assembly in its resolution 48/121 of 20 December 1993, and in particular part I, paragraph 1 which reaffirms, inter alia, that human rights and fundamental freedoms are the birthright of all human beings and that their protection and promotion is the first responsibility of Governments,

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* In accordance with rule 69, paragraph 3, of the rules of procedure of the functional commissions of the Economic and Social Council.

Reaffirming that all Member States have the duty to fulfil the obligations they have undertaken under the various international instruments in this field,

Mindful that Iraq is a party to the International Covenants on Human Rights,

Recalling Security Council resolution 588 (1991) of 5 April 1991, in which the Council demanded an end to the repression of the Iraqi civilian population and insisted that Iraq cooperate with humanitarian organizations to ensure that the human and political rights of all Iraqi citizens were respected,

Recalling also Security Council resolutions 706 (1991) of 15 August 1991, 712 (1991) of 19 September 1991 and 778 (1992) of 2 October 1992,

Recalling in particular its resolution 1991/74 of 6 March 1991, in which the Commission requested its Chairman to appoint a special rapporteur to make a thorough study of the violations of human rights by the Government of Iraq, based on all information the special rapporteur might deem relevant, including information provided by intergovernmental and non-governmental organizations and any comments and material provided by the Government of Iraq,

Recalling further its pertinent resolutions condemning the flagrant violations of human rights by the Government of Iraq, including resolution 1992/71 of 5 March 1992, by which it extended the mandate of the Special Rapporteur for a further year and requested him in pursuing his mandate to visit again the northern area of Iraq, in particular, and to submit an interim report to the General Assembly at its forty-seventh session and a final report to the Commission at its forty-ninth session, as well as resolution 1993/74 of 10 March 1994, in which it extended the mandate of the Special Rapporteur for a further year,

Recalling General Assembly resolution 46/134 of 17 December 1991, in which the Assembly expressed its deep concern at the flagrant violations of human rights by the Government of Iraq, 47/145 of 18 December 1992 and 48/144 of 20 December 1993, in which the Assembly decided to continue its consideration of the situation of human rights in Iraq at its forty-ninth session in the light of additional elements provided by the Commission on Human Rights and the Economic and Social Council,

Deeply concerned by the continued massive and grave violations of human rights by the Government of Iraq, such as summary and arbitrary executions,

torture and other cruel, inhuman or degrading treatment, enforced or involuntary disappearances, arbitrary arrests and detentions, lack of due process and the rule of law and of freedom of thought, of expression and of association, as well as the existence of specific and serious discrimination within the country in terms of access to food and health care,

Urging the Government of Iraq to comply with the Geneva Protocol of 17 June 1925 for the Prohibition of the Use in War of Asphyxiating, Poisonous or other Gases and of Bacteriological Methods of Warfare,

Deeply concerned at the forced displacement of hundreds of thousands of Kurds and at the destruction of Iraqi towns and villages,

Deeply concerned also that the severe and grave violations of human rights by the Government of Iraq have led to a deterioration of the situation of the civilian population in southern Iraq, in particular in the southern marshes,

Regretting that the Government of Iraq has not seen fit to respond to the formal request of the Special Rapporteur on the situation of human rights in Iraq to visit Iraq and that, despite the formal cooperation extended to the Special Rapporteur by the Government of Iraq, such cooperation needs to be improved, in particular by giving full replies to the many questions the Special Rapporteur put to the Government of Iraq in previous years,

Expressing concern at the exceptional gravity of the human rights situation in Iraq and, therefore, welcoming the Special Rapporteur's repeated proposals for the deployment of a team of human rights monitors and for the sending of human rights monitors to such locations as would facilitate improved information flow and assessment and would help in the independent verification of reports on the situation of human rights in Iraq,

1. Takes note with appreciation of the report on the situation of human rights in Iraq submitted by the Special Rapporteur (E/CN.4/1994/58) and the conclusions and recommendations contained therein;

2. Expresses its strong condemnation of the massive violations of human rights, of the gravest nature, for which the Government of Iraq is responsible, resulting in an all-pervasive order of repression and oppression which is sustained by broad-based discrimination and wide spread terror, in particular:

(a) Summary and arbitrary executions, orchestrated mass executions and mass graves throughout Iraq, extrajudicial killings, including political killings, in southern Shia centres and in the southern marsh area;

(b) The widespread routine practice of systematic torture in its most cruel forms;

(c) Enforced or involuntary disappearances, routinely practised arbitrary arrests and detention, including of women, the elderly and children, and consistent and routine failure to respect due process and the rule of law;

(d) Suppression of freedom of thought, expression and association and violations of property rights;

(e) The unwillingness of the Government of Iraq to honour its responsibilities in respect of the economic rights of the population;

3. Calls once again upon Iraq, as a State party to the International Covenant on Economic, Social and Cultural Rights as well as to the International Covenant on Civil and Political Rights, to abide by its freely undertaken obligations under the Covenants and under other international instruments on human rights, and particularly to respect and ensure the rights of all individuals, irrespective of their origin, within its territory and subject to its jurisdiction;

4. Demands that the Government of Iraq restore the independence of the judiciary and abrogate all laws granting impunity to specified forces or persons killing or injuring individuals for any purpose beyond the administration of justice under the rule of law as prescribed by international standards;

5. Calls upon the Government of Iraq to release immediately all persons arbitrarily arrested and detained, including Kuwaitis and nationals of other States;

6. Urges the Government of Iraq to set up an independent commission of inquiry and to take all necessary steps to cooperate closely with the Working Group on Enforced or Involuntary Disappearances to look into the fate of tens of thousands of disappeared persons;

7. Also urges the Government of Iraq to take immediate steps to bring the action of its security apparatus into line with the standards of international

law, in particular those of the International Covenant on Civil and Political Rights;

8. Demands that the Government of Iraq:

(a) In fulfilment of its obligation pursuant to article 27 of the International Covenant on Civil and Political Rights, take steps to ensure the recognition and enjoyment of human rights of persons belonging to minorities;

(b) Immediately cease its periodic shelling of agricultural lands belonging to Iraqi Kurds, cooperate in the identification of minefields with a view to facilitating their marking and eventual clearing, cooperate with international aid agencies in the provision of humanitarian assistance to the northern Kurdish region and take steps towards the lifting of the embargo;

(c) In relation to the southern marsh area and its Marsh Arab population, implement the recommendations made by the Special Rapporteur in his interim report to the General Assembly at its forty-eighth session (A/48/600, para. 82);

9. Further expresses its special alarm at all internal embargoes which permit essentially no exceptions for humanitarian needs and which prevent the equitable enjoyment of basic foodstuffs and medical supplies, and calls upon Iraq, which has sole responsibility in this regard, to remove them and to take such steps as to cooperate with international humanitarian agencies in the provision of relief to those in need throughout Iraq;

10. Regrets the failure of the Government of Iraq to provide satisfactory replies concerning the violations of human rights brought to the attention of the Special Rapporteur, and calls upon the Government to reply without delay in a comprehensive and detailed manner so as to enable the Special Rapporteur to formulate the appropriate recommendations to improve the situation of human rights in Iraq;

11. Requests the Secretary-General, in consultation with the Special Rapporteur, to take the necessary measures in order to send human rights monitors to such locations as would facilitate improved information flows and assessment and would help in the independent verification of reports on the situation of human rights in Iraq;

12. Decides to extend for a further year the mandate of the Special Rapporteur as contained in commission resolutions 1991/74, 1992/71 and 1993/74;

13. Urges the Government of Iraq to accord its full cooperation to the Special Rapporteur, notably during his next visit to Iraq;

14. Requests the Special Rapporteur to report periodically to the Commission on Human Rights on the situation of human rights in Iraq, and to submit an interim report on the situation of human rights in Iraq to the General Assembly at its forty-ninth session and a report to the Commission at its fifty-first session;

15. Requests the Secretary-General to provide appropriate additional resources, within existing overall United Nations resources, to fund the sending of human rights monitors;

16. Also requests the Secretary-General to provide the Special Rapporteur with all the necessary assistance in performing his task;

17. Decides to continue its consideration of the situation of human rights in Iraq, under the same agenda item, at its fifty-first session.

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